STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

May 15, 1996

Federal Communications Commission
Office of the Secretary
1919 M Street, N.W., Room 222
Washington, DC 20554

Re: CC Docket No. 96-98, In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996

Dear Sirs:

Delivered herewith are an original and sixteen (16) copies of the Connecticut Department of Public Utility Control's Written Comments in the above docket. As per Commission instructions, one copy has been sent to Janice Myles of the Commission's Common Carrier Bureau, and one copy has been sent to International Transcription Services, Inc.

Thank you for your consideration.

Sincerely,

DEPARTMENT OF PUBLIC UTILITY CONTROL

Reginald J. Smith
Chairperson

Connecticut Department of Public Utility Control
10 Franklin Square
New Britain, CT 06051
(860) 827-2681

Before the Federal Communications Commission

Washington, D.C. 20554

In the matter of:	)	NO. 96-98
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	Written Comments
	)	
	)	Date: May 16, 1996

Reginald J. Smith, Chairperson

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SUMMARY OF ARGUMENTS

The Connecticut Department of Public Utility Control, (CTDPUC), submits the following Written Comments regarding the Commission's Notice of Proposed Rulemaking (Notice) issued in the above-cited proceeding. As discussed in greater detail below, CTDPUC believes that Commission rules and regulations should be sufficiently flexible to provide the states with the ability to promote telecommunications competition, should allow each state to enact or retain local competition rules that reflect each state's own individual characteristics, and permit further market entry by competitive telecommunications service providers. CTDPUC does not believe that explicit rules and regulations that permit states little or no room for interpretation and implementation and fail to recognize each state's different characteristics will meet Congress' goal of promoting local competition. Indeed, establishing specific rules and regulations would most likely impair state efforts and accomplishments in these areas. CTDPUC recommends therefore, that the Commission adopt a two-tiered approach when promulgating its rules and regulations. Specifically, CTDPUC recommends that the First-Tier rules recognize those activities already undertaken or underway in states promoting local exchange competition. These First-Tier rules should be sufficiently flexible and include minimum standards that satisfy both Congressional intent as well as the Commission's goals, while providing the states with the ability to meet their own goals for local competition. CTDPUC also recommends that the Second-Tier rules and regulations be designed to be more stringent in their requirements than the First-Tier, thereby creating an incentive for those states who have not adopted laws or regulations to permit competition in telecommunications markets including local competition. CTDPUC is cognizant that the Commission must undertake this rulemaking to provide guidance to states under the Telecommunications Act. CTDPUC urges, however, that the Commission conduct this rulemaking in recognition of the shared jurisdiction that has existed between the Commission and the states since the inception of the Communications Act of 1934 and the substantial deference given to existing state local competition rules under the Telecommunications Act of 1996 (1996 Act).

CTDPUC also supports the Commission's rule-making efforts relative to interconnection, unbundling, resale, number portability, dialing parity, access to rights-of-way, reciprocal compensation for transport and termination of telecommunications traffic, and number administration. CTDPUC offers the Commission the results of its own investigation of these issues provided in its January 16, 1996 Decision in Docket No. 94-10-02, DPUC Investigation

into the Unbundling of the Southern New England Telephone Company's Local Telecommunications Network. That docket established Connecticut's rules regarding:

- Which elements would be initially unbundled;
- The procedure for requests for further unbundling;
- A reciprocal compensation policy;
- Number administration;
- Number portability and billing;
- An operational framework through which facilities-based certified local exchange companies (CLECs) could interface the E-911 network;
- An administrative procedure to be used for handling misdirected repair calls; and
- The provision of operator services and directory services.

Significantly, that docket also provided for negotiation-based interconnection agreements which are entirely consistent with the letter of the Telecommunications Act of 1996, even though it was initially adopted 5 months before the passage of the Act. CTDPUC asserts that Congress could hardly have intended for the Commission to preempt a state's rules which, far fom substantially preventing the implementation of the 1996 Act's interconnection guidelines, actually utilize a nearly identical negotiation-based mechanism.

Further, CTDPUC provides the Commission with the findings of its own exhaustive review of various cost of service methodologies in Docket No. 94-10-01, DPUC Investigation into the Southern New England Telephone Company's Cost of Providing Service. In that docket, the Department adopted a TSLRIC methodology for cost of service for Connecticut's principal incumbent local exchange company (LEC) and enunciated its policy with regard to cost recovery of joint and common costs in Connecticut's competitive environment.

Lastly, consistent with the Commission's request for comment on permitting states the flexibility to respond more appropriately to state-specific technical, demographic or geographic issues, CTDPUC offers comments in several areas where explicit rules from the Commission

could negatively affect existing state policies that reflect legitimate state-specific policies that are consistent with the 1996 Act. These areas include, among others, reciprocal compensation, and geographically- and class-of-service-averaged rates.

A. SCOPE OF THE COMMISSION'S REGULATIONS ((II)(A) OF THE NOTICE)

The Commission, in its Notice, has presented a very thoughtful analysis of the Telecommunications Act of 1996 and its ramifications on local telecommunications interconnection issues. While the Notice's examination is exhaustive and thought-provoking, CTDPUC is concerned that some of the Notice's tentative conclusions would shift the balance toward the Commission beyond that which is intended under the Act.

1. The Telecommunications Act of 1996, Consistent with Prior Law, Expresses a Preference for Flexible Commission Guidelines

At Paragraph 37, the Commission tentatively concludes that Congress intended sections 251 and 252 to apply to both interstate and intrastate aspects of interconnection, service and network elements, and thus the Commission's regulations implementing those sections should apply to both aspects as well. While the Department agrees that interpreting the requirements of sections 251 and 252 regarding interconnection as referring only to interstate interconnection could foster an unintended result if states were to establish local competition rules with no guidance from the Act, the Department is of the firm opinion that the general theme of the Commission's NPRM and many of its tentative conclusions do not take into account the jurisdictional balance established by the 1996 Act.

The dual system of telecommunications regulation established in section 152(a) of the Communications Act grants the Commission jurisdiction over all interstate communication by wire and radio, while section 152(b) reserves to the states jurisdiction over all intrastate communication by wire or radio of any carrier, with certain exceptions not relevant here. While section 251 was, as the Commission argues, enacted after section 152(b), section 251 was clearly not written to negate section 152(b); rather, CTDPUC asserts that it was written in recognition of the historically shared jurisdiction between the Commission and the states, and explicitly provides substantial deference to the states.

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Clear evidence of Congressional intent to provide substantial latitude to the states in their implementation of the 1996 Act lies in the words of the 1996 Act itself. While section 261(b) (which contains a savings clause for Part II of the 1996 Act) provides that "[n]othing in this part shall be construed to prohibit any State commission from enforcing regulations . . . fulfilling the requirements of this part, if such regulations are not inconsistent with the provisions of this part," (emphasis added), section 251(d)(3) (which contains a savings clause for section 251 of the 1996 Act) provides that "in prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that . . . does not substantially interfere with the requirements of this section and the purposes of this part." (emphasis added). Congress clearly inserted a more stringent standard for Commission preemption of state rules under the interconnection section than for the part as a whole in order to provide more deference to state interconnection rules.

In light of the foregoing, it is particularly difficult to understand why Congress would have intended for the Commission to preempt state regulation such as Connecticut's (discussed below) which are so consistent with the letter and spirit of the 1996 Act as to have established a negotiation-based interconnection mechanism despite having been implemented 5 months prior to passage of the 1996 Act. Connecticut's local competition regulations do not substantially prevent implementation of the 1996 Act; they are wholly consistent with the Act and should not be preempted.

2. The Substantial Latitude Provided to the States Under the 1996 Act Provides a Stark Contrast to the Omnibus Budget Reconciliation Act of 1993's Explicit Preemption of State Authority

While the Commission cites to the Omnibus Budget Reconciliation Act of 1993 (OBRA) for a different purpose, CTDPUC argues that OBRA represents an example of Congress' explicit intent to preempt state authority, whereas section 251 represents a clear intent to refrain from preemption. OBRA, as the Commission states, expressly amended section 152(b) to reflect OBRA's preemption of state regulatory authority over the rates charged for CMRS. The Commission notes in paragraph 40 that because the 1996 Act did not similarly amend section 152(b), Congress did not intend for that section to alter the jurisdictional authority with respect to matters falling outside the scope of those sections, such as state authority over the rates charged to end users for local exchange service. CTDPUC does not dispute this conclusion, as sections 251 and 252 do not alter jurisdictional authority over the rates charged to end users for local

exchange service because those sections govern interconnection between carriers, and have nothing to do with end user rates.

Because OBRA serves as an explicit example of Congressional intent to alter the jurisdictional authority over telecommunications, it follows, therefore, that Congress intended no such shift in regulatory authority over interconnection in the 1996 Act. The 1996 Act explicitly preserves state access regulations in section 251(d)(3), as long as such regulations do not substantially prevent implementation of the requirements of section 251 and the purposes of Part II of the Act. The distinction between Congress' actions in these two situations is clear. Congress could have explicitly preempted state authority in the 1996 Act as it did in OBRA, but chose not to.

Consequently, CTDPUC reiterates that, in recognition of the historical shared jurisdiction between the Commission and the states, the fact that Congress chose not to explicitly preempt in the 1996 Act as it did in OBRA, and instead preserved state access regulations that do not substantially prevent implementation of section 251, Congress clearly crafted the interconnection provisions of the 1996 Act to reflect a preference and intent for continuing shared jurisidiction and substantial deference to state regulation.

B. INTERCONNECTION, COLLOCATION, AND UNBUNDLED ELEMENTS ((II)(B)(2) OF THE NOTICE)

Since enactment of Connecticut Public Act 94-83, An Act Implementing the Recommendations of the Telecommunications Task Force (PA 94-83), CTDPUC has been aggressively developing and implementing Connecticut-specific policies to promote telecommunications competition in Connecticut, specifically at the local exchange level.[1] A copy of PA 94-83 is appended hereto as Attachment A. CTDPUC believes that its policies and rules do not substantially prevent implementation of section 251 of the 1996 Act, and are in fact wholly consistent with the 1996 Act. Furthermore, these policies and rules reflect Connecticut-specific demographics, economics and the technologies/facilities deployed by the Southern New

[1] CTDPUC has received 13 applications for certification to provide local exchange service. Of the 13 applications received, nine companies have been certified to provide local exchange service, three applications are pending, and one (Sprint Telecommunications Venture) was withdrawn. In addition, one company, Teleport Communications Group, is currently offering local switched service.

England Telephone Company (SNET), NYNEX and the Woodbury Telephone Company (Woodbury).

Significantly, these Connecticut policies and rules also reflect the participation of several large telecommunications services providers and industry associations (e.g., AT&T Communications of New England (AT&T), MCI Telecommunications Corporation (MCI), Teleport Communications Group (TCG) and the New England Cable Television Association) in approximately 20 various proceedings conducted before CTDPUC between July 1, 1994 and the present.[2] The investigations completed to date encompass more than 22 months of significant effort by Connecticut's telecommunications providers and CTDPUC, including a precedent-setting unbundling and interconnection stipulation from Connecticut's telecommunications providers, Connecticut's public parties, and its principal LEC.

CTDPUC submits that overly explicit interconnection rules by the Commission could ignore the progress already made in several states in general. The Commission should not act to preempt Connecticut's hard-fought and carefully crafted pro-competitive local competition policies. Such action by the Commission would be contrary to the deference extended to states' local competition rules in section 251(d)(3) and would unnecessarily preempt state rules that do not substantially interfere with implementation of the interconnection section and in fact are closely aligned with the letter and spirit of the interconnection section of the 1996 Act.

Consistent with the Commission's request, CTDPUC will show below why the Commission should not preempt state-specific policies such as Connecticut's, which reflect Connecticut's particular characteristics. CTDPUC also submits that its policies and rules, while appropriate for Connecticut, would most likely be inappropriate for other states. The differences in state economic and demographic factors as well as the status of the development of competitive policies in various states clearly illustrate that explicit standards cannot satisfy Congress' intent or the 1996 Act's goals for a pro-competitive, de-regulatory national policy framework. CTDPUC believes that any explicit standards imposed on the states could threaten

[2] The development of local exchange competition is evolving and will not occur overnight. Additional proceedings to provide for the evolution of local exchange competition in the Connecticut marketplace have been initiated and are currently underway. Additionally, CTDPUC has established separate proceedings, similar to those conducted for SNET, to provide for local exchange competition in the NYNEX and Woodbury service territories in Connecticut.

the development of local exchange competition and be contrary to Congress' goals for a national competitive telecommunications policy.

1. Unbundled Elements

The Commission tentatively concludes at paragraph 77 that, instead of itemizing an exhaustive list of network elements to be unbundled, the Commission should identify a minimum set of network elements that LECs must unbundle for any requesting carrier. CTDPUC supports this conclusion and offers the results of its own unbundling investigation as input to the minimum set of network elements and as proof of the decisive action being taken in the states on this issue. The results of Connecticut's unbundling investigation are detailed in the "Unbundling and Resale Stipulation" (Stipulation) attachment to Docket No. 94-10-02, DPUC Investigation Into the Unbundling of The Southern New England Telephone Company's Local Telecommunications Network, which is appended to these Written Comments as Attachment B. The Commission should note that the Stipulation, which includes a list of network elements to initially unbundle, as well as agreements on operational procedures and interfaces, represents months of hard work and intensive negotiations by Connecticut's telecommunications providers, Connecticut's public parties, and its principal LEC.

CTDPUC requests, however, that if the Commission decides to establish a minimum set of elements that LECs must unbundle for any requesting carrier, it should bear in mind that network designs are likely to diverge in the near future, and therefore, the Commission's guidelines should be sufficiently flexible to allow states to address these differences in technology. The Commission should also recognize that states will necessarily be more familiar with local networks, and thus will be better equipped to unbundle.

2. Pricing of Unbundled Elements

The Commission, in paragraph 118, reaches what CTDPUC perceives as perhaps the most objectionable tentative conclusion in the Notice. In interpreting the 1996 Act to require that the Commission establish pricing principles for states to apply in establishing rates in arbitrations and in reviewing Bell Operating Company (BOC) statements of generally available terms and conditions, the Commission significantly alters the balance of power anticipated by Congress in section 251(d)(3) of the 1996 Act. For the reasons cited above in section A of these Comments, CTDPUC respectfully disagrees with the Commission's conclusions, and asserts that

state commissions such as Connecticut must have the ability to enact their own pricing policies in order to accomplish state-specific goals and recognize state-specific policies.

Additionally, CTDPUC believes that the Commission's reliance on the need to set standards for reviewing BOC statements of generally available terms and conditions as a factor requiring the Commission to establish pricing principles ignores the individuality that Congress recognized in the 1996 Act. Specifically, Connecticut's principal incumbent LEC is not a BOC. Its principal incumbent LEC is already competing in the interstate interexchange market, and has been subject to unbundling and interconnection requirements not because of the passage of the 1996 Act, but because of PA 94-83 and CTDPUC's efforts in deregulating Connecticut's telecommunications marketplace. Therefore, the *quid pro quo* that the BOC statements of generally available terms and conditions represents is largely inapplicable to Connecticut, and should not be used to undermine the significant accomplishments that have been achieved here.

Finally, CTDPUC asserts that many types of interconnection and unbundled elements are so removed from the interstate arena that it is unclear why Congress would prefer for the Commission to establish pricing policies for them. For example, CTDPUC is currently examining pricing policies for access to E-911. E-911 is a matter of great interest to state legislatures and local communities, and almost by definition is intrastate in nature. Because E-911 is a local issue, state legislatures and state commissions may prefer various pricing methodologies for E-911 access that would be consistent with the 1996 Act, yet reflect varying state policies for E-911. For example, one state may view a large markup above total service long-run incremental costs (TSLRIC) on E-911 as a method of ensuring the highest quality E-911 available, while another jurisdiction may treat access to E-911 as a bottleneck facility that should command a particularly low markup. Regardless of the rationale chosen by the state commission, its legislature, or both, E-911 represents a particularly compelling argument for allowing states to retain control over pricing policies, including markup, and a clear example of an interconnection policy that Congress surely intended for the Commission leave to the states.

a. CTDPUC Has Chosen TSLRIC as the Basis of Pricing for Its Increasingly Competitive Telecommunications Marketplace

At paragraph 123, the Commission concludes that section 251(d)(1) precludes states from setting interconnection and unbundled element rates by use of traditional cost-of-service regulation. CTDPUC has conducted an analysis of alternative cost methodologies in light of the

increasingly competitive marketplace fostered by PA 94-83. In its June 15, 1995 Decision in Docket No. 94-10-01, DPUC Investigation into the Southern New England Telephone Company's Cost of Providing Service, CTDPUC, after reviewing various methodologies proposed by SNET, MCI, AT&T, and Connecticut's Office of Consumer Counsel, adopted a forward-looking TSLRIC cost methodology that comports with the Commission's interpretation of section 251(d)(1). A copy of CTDPUC's June 15, 1995 Decision in Docket No. 94-10-01 is appended hereto as Attachment C.

The results of Docket No. 94-10-01 have formed the bedrock for Connecticut's approach to costing and pricing in Connecticut's increasingly competitive environment. Establishing explicit interconnection and unbundled rate element guidelines that override Connecticut's cost-of-service policies would have ramifications that could seriously affect nearly all aspects of its hard-fought and carefully crafted local competition rules.

C. TENTATIVE CONCLUSIONS IN THE NOTICE REGARDING RECIPROCAL COMPENSATION AND GEOGRAPHIC RATE AVERAGING WOULD SERIOUSLY IMPINGE ON CONNECTICUT'S IMPLEMENTATION OF LOCAL COMPETITION

The Commission in its Notice requested comments on whether detailed, explicit interconnection rules might unduly constrain the ability of states to address unique policy concerns that might exist within their jurisdictions.[3] CTDPUC takes this opportunity to highlight two areas, reciprocal compensation and geographic rate averaging, in which explicit interconnection rules would, in fact, unduly constrain and in fact reverse pro-competitive policies that have been implemented in Connecticut.

1. Reciprocal Compensation

Reciprocal compensation, it must be remembered, is somewhat of an analog to access. Therefore, it is closely aligned with, and in terms of policy, nearly inseparable from definitions of local calling areas. Reciprocal compensation's relationship to definitions of local calling areas is particularly important in Connecticut, which might be one of the few states able to contemplate statewide local calling. Because of the benefits that would accrue to some classes of customers through a statewide local exchange offering, CTDPUC has taken the very procompetitive stance of allowing competitive local exchange companies (CLEC) to rate calls

[3] Notice at paragraph 33.

placed on their network and terminated on another. In doing so, CTDPUC has tried to encourage CLECs to creatively define their own local calling area, instead of being tied to the incumbent LEC's (ILEC) local calling areas.

Connecticut is a relatively small, densely populated state with particular characteristics that affect calling patterns differently than any other state. These calling patterns and geographic characteristings allow the Department to encourage statewide calling plans. These calling plans may, however, require relatively close monitoring and close control over reciprocal compensation policies. For example, as competition develops, the creation of a statewide local calling areas by a CLEC could possibly result in an ILEC being forced to "haul" traffic across the entire state for a CLEC who will compensate the ILEC at a rate based on local termination. While the Department does not anticipate conducting the type of proceeding prohibited by section 252(d)(2)(B)(ii) (neither the FCC nor state commissions are authorized to engage in any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls, or to require carriers to maintain records with respect to the additional costs of such calls), the Department is concerned with any policy that would prohibit ILECs from recovering their costs. Therefore, if the Commission were to issue explicit rules with regard to reciprocal compensation, the Department's ability to take advantage of Connecticut's unique characteristics would largely be removed.

Furthermore, with regard to network topologies, Connecticut's principal incumbent LEC is undergoing an infrastructure modernization program that may significantly alter its network topology, and therefore is not likely to resemble the network topologies in many rural states. Therefore, explicit reciprocal compensation rate guidelines set by the Commission may not sufficiently take into account the distinctions between and among widely differing networks in the United States. Additionally, uniform national rules may not contemplate differing switch deployment by CLECs in different areas. The large number of telecommunications dollars in Connecticut may, for example, justify deploying a switch capable of more functions than in other, less densely populated markets (one CLEC has indicated its intention to deploy a switch capable of Class 3, 4 and 5 functions, thereby assuming the role of a tandem as well as an end office switch). Consequently, the Commission should avoid setting explicit rate guidelines for reciprocal compensation.

2. Geographic Rate Averaging

The Commission's Notice, at paragraph 133, seeks comment on whether interconnection and unbundled element rates should be set on a geographically- and class-of-service-averaged basis for each incumbent LEC, or whether some form of disaggregation would be desirable.[4] In CTDPUC's opinion, this issue highlights, as much as any other, the need for the Commission to refrain from setting explicit standards, because setting explicit standards would undermine the efforts and accomplishments of many state commissions.

Connecticut, as a state that has faced the issues of deregulation on a relatively early basis, has acknowledged the principle that in competitive markets, rates should move toward costs. This principle has been argued in many CTDPUC proceedings and has never been opposed. Consistent with this concept, the CTDPUC has permitted SNET to develop TSLRIC studies so as to create four categories of density-related costs: Rural; Suburban; Urban; and Metro. In Docket No. 95-06-17, Application of the Southern New England Telephone Company for Approval to Offer Unbundled Loops, Ports and Associated Interconnection Arrangements, CTDPUC approved interim rates for unbundled loops and wholesale service based on this cost structure.

Explicit standards established by the Commission will undermine the four category structure that CTDPUC has allowed to be implemented in order to transition to cost-based pricing. The transition to cost-based pricing is likely to be more acute in Connecticut than perhaps any other jurisdiction due to the degree of competition currently in the state. (Connecticut has already approved certification for nine CLECs, with three applications currently pending). Because other states simply may not see the same degree of competition as soon as Connecticut, the problems that would arise from a "one size fits all" geographically-averaged approach to local competition would be more pronounced in Connecticut, and could undermine its efforts to transition to cost-based pricing.

Furthermore, explicit standards that call for geographically averaged rates could be considered particularly punitive in light of the 1996 Act's mechanism for determining wholesale

[4] Notice, pp. 47 and 48.

rates contained in section 252(d)(3). That mechanism, which ignores the social policies embodied in the historical approach to setting retail local exchange rates on a residual basis, may very well cause a rebalancing of residential rates before costs are allowed to fall below the current rate level. CTDPUC is currently examining the effects of section 252(d)(3) in Docket No. 96-03-19, Petition of the Southern New England Telephone Company for Suspension of Section 251(c)(4) of the Telecommunications Act of 1996. While the docket is ongoing at this time, and CTDPUC has not completed its consideration of this issue, it is noteworthy that several participants have argued that the simple solution lies in rebalancing rates. Hypothetically, then, if an incumbent LEC is forced to rebalance its residential rates towards cost in order to alleviate the detrimental effects of section 252(d)(3), and that rebalancing is done along the lines of the four categories of density-related costs utilized in its cost studies and CTDPUC's interim rates, and if the Commission sets unbundled element rates on a geographically averaged or otherwise inconsistent method, those unbundled element rates will recreate a cost-rate disparity in Connecticut that CTDPUC would be powerless to address. Clearly, the Commission should withhold establishing policies that may be contrary to state findings and policies.

D. RECOMMENDATION

Because explicit guidelines would undermine the efforts expended by many state commissions to create the competitive environment that makes the most sense for their state, CTDPUC recommends that the Commission promulgate rules that recognize the differences in state demographics, geography and deployed technology, and recognize state efforts such as Connecticut's, which have resulted in state-specific rules that are consistent with the 1996 Act. CTDPUC believes that section 251(d)(3) of the 1996 Act requires such an approach. [5]

A sufficiently general and flexible guideline approach would provide states with the ability to comply with and meet the competitive goals of the 1996 Act while fostering telecommunications competition in their respective jurisdictions. A flexible approach that recognizes existing state efforts would recognize, as the Commission has indicated throughout its Notice, the experience gained by the states in the very issues it is currently seeking comment.[6]

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[5] CTDPUC notes that while the §251(d)(3) heading states "Preservation of state access regulations," it is clear that this section does not limit the states being precluded from enforcement of regulations pertaining only to access services. Rather, states will have the ability to enforce regulations, orders etc. for all elements contained in §251.

[6] See for example, the Connecticut, New York and California experience regarding interconnection, and Connecticut, New York, Illinois and Maryland experience relative to unbundling.

The Commission's reliance on these states' experience when promulgating its rules would provide the Commission with sufficient insight as to the various differences each state may experience when moving toward a more competitive telecommunications marketplace. CTDPUC believes that based on the degree of state work already completed in these areas, application of Commission rules that are restrictive or explicit will deter competition and is contrary to the 1996 Act's goals.

CTDPUC notes that the Commission in promulgating its rules must recognize those states that have not adopted laws or regulations providing for local competition. CTDPUC recommends that the Commission develop a two-tiered approach to its regulations to recognize the differences in the various state's actions relative to telecommunications competition. In particular, CTDPUC recommends that the Commission in recognition of those states' pro-competitive activities in the local and toll markets, embody in its First Tier regulations, flexible guidelines based on those states' proven experience in these areas. Clearly, the Commission is at an advantage in this rule-making proceeding because it is in the position to review the various state's experiences, the differences among the states and to promulgate flexible rules based on these experiences.

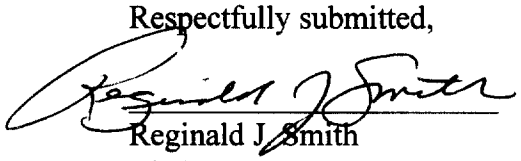
Regarding the Second-Tier of the regulations, these rules would only apply to those states whose telecommunications policies are lacking and are not consistent with the 1996 Act. CTDPUC believes that while recognizing individual state differences, the Commission should impose on those states that do not currently permit local and long distance competition, more specific requirements than those contained in the First-Tier. CTDPUC also believes that the Second-Tier regulations should contain provisions to encourage the states to develop more pro-competitive policies in the local and toll markets that resemble the more progressive states.

E. CONCLUSION

Congress through the 1996 Act has established goals to provide for competition in the local and toll markets. The Commission has been charged with the responsibility to develop the rules and regulations under which these goals can be achieved. Telecommunications competition in the local exchange market will not develop overnight. Rather it will evolve over a period of time. CTDPUC recommends that any rules and regulations promulgated from this proceeding recognize the evolution of competition that will occur in the telecommunications arena and provide the states with the flexibility to react to these changes. The Commission should also

draw from the states' experience in promulgating its rules and regulations, and leave with them the flexibility that they require to promote local exchange competition.

Respectfully submitted,



Reginald J. Smith
Chairperson

Connecticut Department of Public
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Attachment A

Substitute House Bill No. 5420
PUBLIC. ACT NO 94-83
AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE TELECOMMUNICATIONS TASK FORCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 16-1 of the general statutes, as amended by public act 93-149, is repealed and the following is substituted in lieu thereof:

(a) Terms used in this title and in chapters 244, 244a, 244b, 245, 245a and 245b* shall be construed as follows, unless another meaning is expressed or is clearly apparent from the language or context:

(1) "Authority" means the public utilities control authority and "department" means the department of public utility control;

(2) "Commissioner" means a member of said authority;

(3) "Commissioner of transportation" means the commissioner of transportation appointed under section 13b-3;

4) "Public service company" includes electric, gas, telephone, telegraph, pipeline, sewage, water and community antenna television companies, owning, leasing, maintaining, operating, managing or controlling plants or parts of plants or equipment, and all express companies having special privileges on railroads within this state, but shall not include telegraph company functions concerning intrastate money order service, towns, cities, boroughs, any municipal corporation or department thereof, whether separately incorporated or not, or a private power producer, as defined in section 16-243b, AS AMENDED BY SECTION 2 OF PUBLIC ACT 93-299;

(5) "Plant" includes all real estate, buildings, tracks, pipes, mains, poles, wires and other fixed or stationary construction and equipment, wherever located, used in the conduct of the business of the company;

(6) "Railroad company" includes every corporation, company, association, joint stock association, partnership or person, or lessee thereof, owning, leasing, maintaining, operating, managing or controlling any railroad, or any cars or other equipment employed thereon or in connection therewith, for public or general use within this state;

(7) "Street railway company" includes every corporation, company, association, joint stock association, partnership or person, or lessee thereof, owning, leasing, maintaining, operating, managing or controlling any street railway, or any cars or other equipment employed thereon or in connection therewith, for public or general use within this state;

(8) "Electric company" includes every corporation, company, association, joint stock association, partnership or person, or lessee thereof, owning, leasing, maintaining, operating, managing or controlling poles, wires, conduits or other fixtures, along public highways or streets, for the transmission or distribution of electric current for sale for light, heat or power within this state, or engaged in generating electricity to be so transmitted or distributed for such purpose, but shall not include a private power

producer, as defined in section 16-243b, AS AMENDED BY SECTION 2 OF PUBLIC ACT 93-299, a municipal electric utility established under chapter 101, a municipal electric energy cooperative established under chapter 101a, an electric cooperative established under chapter 597 or any other electric utility owned, leased, maintained, operated, managed or controlled by any unit of local government under any general statute or any public or special act;

(9) "Gas company" includes every corporation, company, association, joint stock association, partnership or person, or lessee thereof, owning, leasing, maintaining, operating, managing or controlling mains, pipes or other fixtures, in public highways or streets, for the transmission or distribution of gas for sale for heat or power within this state, or engaged in the manufacture of gas to be so transmitted or distributed for such purpose, but shall not include a municipal gas utility established under chapter 101 or any other gas utility owned, leased, maintained, operated, managed or controlled by any unit of local government under any general statute or any public or special act;

(10) "Water company" includes every corporation, company, association, joint stock association, partnership or person, or lessee thereof, owning, leasing, maintaining, operating, managing or controlling any pond, lake, reservoir, stream, well or distributing plant or system employed for the purpose of supplying water to fifty or more consumers. A water company does not include homeowners, condominium associations providing water only to their members, homeowners associations providing water to customers at least eighty per cent of whom are members of such associations, a municipal waterworks system established under chapter 102, a district, metropolitan district, municipal district or special services district established under chapter 105, chapter 105a or any other general statute or any public or special act which is authorized to supply water, or any other waterworks system owned, leased, maintained, operated, managed, or controlled by any unit of local government under any general statute or any public or special act;

(11) "Consumer" means any private dwelling, boardinghouse, apartment, store, office building, institution, mechanical or manufacturing establishment or other place of business or industry to which water is supplied by a water company;

(12) Sewage company" includes every corporation, company, association, joint stock association, partnership or person, or lessee thereof, owning, leasing, maintaining, operating, managing or controlling, for general use in any town, city or borough, or portion thereof, in this state, sewage disposal facilities which discharge treated effluent into any waterway of this state;

(13) "Pipeline company" includes every corporation, company, association, joint stock association, partnership or person, or lessee thereof, owning, leasing, maintaining, operating, managing or controlling mains, pipes or other fixtures through, over, across or under any public land, water, parkways, highways, parks or public grounds for the transportation, transmission or distribution of petroleum products for hire within this state;

(14) "Community antenna television company" includes every corporation, company, association, joint stock association, partnership or person, or lessee thereof, owning, leasing, maintaining, operating, managing or controlling a community antenna television system, in, under or over any public street or highway, for the purpose of

providing community antenna television service for hire and shall include any municipality which owns or operates one or more plants for the manufacture or distribution of electricity pursuant to section 7-213 or any special act and seeks to obtain or obtains a certificate of public convenience and necessity to construct or operate a community antenna television system pursuant to section 16-331, AS AMENDED 9Y SECTION 15 OF THIS ACT;

(15) "Community antenna television service" means (1) the one-way transmission to subscribers of video programming or information that a community antenna television company makes available to all subscribers generally, and subscriber interaction, if any, which is required for the selection of such video programming or information and (2) noncable communications service;

(16) "Community antenna television system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide community antenna television service which includes video programming and which is provided in, under or over any public street or highway, for hire, to multiple subscribers within a franchise, but such term does not include (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility is located in, under or over a public street or highway; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of [Title] SUBCHAPTER II of CHAPTER 5 OF the Communications Act of 1934, 47 USC 201 ET SEQ., as amended, except that such facility shall be considered a community antenna television system and the carrier shall be considered a public service company to the extent such facility is used in the transmission of video programming directly to subscribers; or (4) a facility of an electric company which is used solely for operating its electric company systems;

(17) "Video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station;

(18) "Noncable communications service" means any telecommunications service, as defined in section 16-247a, AS AMENDED BY SECTION 2 OF THIS ACT, and which is not included in the definition of "cable service" in the [Cable] Communications [Policy] Act of [1984, P.L. 98-549] 1934, 47 USC 522, AS AMENDED. Nothing in this definition shall be construed to affect service which is both authorized and preempted pursuant to federal law;

(19) "Public service motor vehicle" includes all motor vehicles used for the transportation of passengers for hire;

(20) "Motor bus" includes any public service motor vehicle operated in whole or in part upon any street or highway, by indiscriminately receiving or discharging passengers, or operated on a regular route or over any portion thereof, or operated between fixed termini, and any public service motor vehicle operated over highways within this state between points outside this state or between points within this state and points outside this state;

(21) "Cogeneration technology" means the use for the generation of electricity of exhaust steam, waste steam, heat or resultant energy from an industrial, commercial or

manufacturing plant or process, or the use of exhaust steam, waste steam or heat from a thermal power plant for an industrial, commercial or manufacturing plant or process, but shall not include steam or heat developed solely for electrical power generation;

(22) Renewable fuel resources" means energy derived from wind, hydro power, biomass or other solar resources;

(23) "Telephone company" [includes every corporation, company, association, joint stock association, partnership or person, or lessee thereof, owning, leasing, maintaining, operating, managing or controlling poles, wires, conduits or other fixtures, in, under or over any public highway or street, for the provision of telephone exchange and other systems and methods of telecommunications and services related thereto in or between any or all of the cities, towns, boroughs and other municipalities of this state, but shall not include a person, firm or corporation that provides only such telecommunications service as may be authorized pursuant to sections 16-247f to 16-247h, inclusive] MEANS A TELECOMMUNICATIONS COMPANY THAT PROVIDES ONE OR MORE NONCOMPETITIVE OR EMERGING COMPETITIVE SERVICES, AS DEFINED IN SECTION 16-247a, AS AMENDED BY SECTION 2 OF THIS ACT;

(24) "Domestic telephone company" includes any telephone company which has been chartered by or organized or constituted within or under the laws of this state;

(25) "TELECOMMUNICATIONS COMPANY" MEANS A CORPORATION, COMPANY, ASSOCIATION, JOINT STOCK ASSOCIATION, PARTNERSHIP OR PERSON, OR A LESSEE THEREOF, WHICH PROVIDES TELECOMMUNICATIONS SERVICE, AS DEFINED IN SECTION 16-247a, AS AMENDED BY SECTION 2 OF THIS ACT, WITHIN THE STATE, BUT SHALL NOT MEAN A PERSON, FIRM, CORPORATION, COMPANY, ASSOCIATION, JOINT STOCK ASSOCIATION OR PARTNERSHIP, OR A LESSEE THEREOF, WHICH PROVIDES ONLY (A) PRIVATE TELECOMMUNICATIONS SERVICE, AS DEFINED IN SECTION 16-247a, AS AMENDED BY SECTION 2 OF THIS ACT, (B) THE ONE-WAY TRANSMISSION OF VIDEO PROGRAMMING OR OTHER PROGRAMMING SERVICES TO SUBSCRIBERS, (C) SUBSCRIBER INTERACTION, IF ANY, WHICH IS REQUIRED FOR THE SELECTION OF SUCH VIDEO PROGRAMMING OR OTHER PROGRAMMING SERVICES, (D) THE TWO-WAY TRANSMISSION OF EDUCATIONAL OR INSTRUCTIONAL PROGRAMMING TO A PUBLIC OR PRIVATE ELEMENTARY OR SECONDARY SCHOOL, OR A PUBLIC OR INDEPENDENT INSTITUTION OF HIGHER EDUCATION, AS REQUIRED BY THE DEPARTMENT PURSUANT TO A COMMUNITY ANTENNA TELEVISION COMPANY FRANCHISE AGREEMENT, OR PROVIDED PURSUANT TO A CONTRACT WITH SUCH A SCHOOL OR INSTITUTION WHICH CONTRACT HAS BEEN FILED WITH THE DEPARTMENT, OR (E) A COMBINATION OF THE SERVICES SET FORTH IN SUBPARAGRAPHS (B) TO (D), INCLUSIVE, OF THIS SUBDIVISION.

(b) Notwithstanding any provision of the general statutes to the contrary, as used in the general statutes, the terms "utility", "public utility" and "public service company" shall be deemed to include a community antenna television company, except (l) as otherwise provided in sections 16-8, 16-27, 16-28 and 16-43, AS AMENDED BY SECTION 9 OF PUBLIC ACT 93-381, (2) that no provision of the general statutes, including but not limited to, the provisions of sections 16-6b and 16-19, AS AMENDED

BY SECTION 12 OF THIS ACT, shall subject a community antenna television company to regulation as a common carrier or utility by reason of providing community antenna television service, other than noncable communications service, as provided [under Section 621(c) of the Cable] IN SUBCHAPTER V-A OF CHAPTER 5 OF THE Communications IPolicy] Act of [1984, P.L. 98-549] 1934, 47 USC 521 ET SEQ., AS AMENDED, and (3) that no provision of the general statutes, including but not limited to, sections 16-6b and 16-19, AS AMENDED BY SECTION 12 OF THIS ACT, shall apply to community antenna television companies to the extent any such provision is preempted pursuant to any other provision of the [Cable] Communications [Policy] Act of [1984, P.L. 98-549] 1934, 47 USC 151 ET SEQ., AS AMENDED, any other federal act or any regulation adopted thereunder.

Sec. 2. Section 16-247a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) DUE TO THE FOLLOWING: AFFORDABLE, HIGH QUALITY TELECOMMUNICATIONS SERVICES THAT MEET THE NEEDS OF INDIVIDUALS AND BUSINESSES IN THE STATE ARE NECESSARY AND VITAL TO THE WELFARE AND DEVELOPMENT OF OUR SOCIETY; THE EFFICIENT PROVISION OF MODERN TELECOMMUNICATIONS SERVICES BY MULTIPLE PROVIDERS WILL PROMOTE ECONOMIC DEVELOPMENT IN THE STATE; EXPANDED EMPLOYMENT OPPORTUNITIES FOR RESIDENTS OF THE STATE IN THE PROVISION OF TELECOMMUNICATIONS SERVICES BENEFIT THE SOCIETY AND ECONOMY OF THE STATE; AND ADVANCED TELECOMMUNICATIONS SERVICES ENHANCE THE DELIVERY OF SERVICES BY PUBLIC AND NOT-FOR PROFIT INSTITUTIONS, IT IS, THEREFORE, THE GOAL OF THIS STATE TO (1) ENSURE THE UNIVERSAL AVAILABILITY AND ACCESSIBILITY OF HIGH QUALITY, AFFORDABLE TELECOMMUNICATIONS SERVICES TO ALL RESIDENTS AND BUSINESSES IN THE STATE, (2) PROMOTE THE DEVELOPMENT OF EFFECTIVE COMPETITION AS A MEANS OF PROVIDING CUSTOMERS WITH THE WIDEST POSSIBLE CHOICE OF SERVICES, (3) UTILIZE FORMS OF REGULATION COMMENSURATE WITH THE LEVEL OF COMPETITION IN THE RELEVANT TELECOMMUNICATIONS SERVICE MARKET, (4) FACILITATE THE EFFICIENT DEVELOPMENT AND DEPLOYMENT OF AN ADVANCED TELECOMMUNICATIONS INFRASTRUCTURE, INCLUDING OPEN NETWORKS WITH MAXIMUM INTEROPERABILITY AND INTERCONNECTIVITY, (5) ENCOURAGE SHARED USE OF EXISTING FACILITIES AND COOPERATIVE DEVELOPMENT OF NEW FACILITIES WHERE LEGALLY POSSIBLE, AND TECHNICALLY AND ECONOMICALLY FEASIBLE, AND (6) ENSURE THAT PROVIDERS OF TELECOMMUNICATIONS SERVICES IN THE STATE PROVIDE HIGH QUALITY CUSTOMER SERVICE AND HIGH QUALITY TECHNICAL SERVICE. THE DEPARTMENT SHALL IMPLEMENT THE PROVISIONS OF THIS ACT IN ACCORDANCE WITH THESE GOALS.

(b) As used in sections 16-247a to [16-247e] 16-247c, inclusive, AS AMENDED BY SECTIONS 2 TO 4, INCLUSIVE, OF THIS ACT, SECTIONS 16-247e TO 16-247h, INCLUSIVE, AS AMENDED BY SECTIONS 5 TO 8, INCLUSIVE, OF THIS ACT,

SECTION 16-247i, AS AMENDED BY SECTION 10 OF THIS ACT, AND SECTION 9 OF THIS ACT:

(1) "Affiliate" means a person, firm or corporation which, with another person, firm or corporation, is under the common control of the same parent firm or corporation.

[(2) "Bypass service" means any telecommunications service which is not prohibited pursuant to section 16-247c or any transmission which is not included in the definition of telecommunications service, and which is similar to a service or transmission provided by a telephone company but is provided without using the public switched network of a telephone company.

(3) "Community antenna television company" shall be construed as defined in section 16-1.]

(2) "COMPETITIVE SERVICE" MEANS (A) A TELECOMMUNICATIONS SERVICE DEEMED COMPETITIVE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16-247f, AS AMENDED BY SECTION 6 OF THIS ACT, (B) A TELECOMMUNICATIONS SERVICE RECLASSIFIED BY THE DEPARTMENT AS COMPETITIVE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16-247f, AS AMENDED, OR (C) A NEW TELECOMMUNICATIONS SERVICE PROVIDED UNDER A COMPETITIVE SERVICE TARIFF ACCEPTED BY THE DEPARTMENT, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16-247f, AS AMENDED, PROVIDED THE DEPARTMENT HAS NOT SUBSEQUENTLY RECLASSIFIED THE SERVICE SET FORTH IN SUBPARAGRAPH (A), (B) OR (C) OF THIS SUBDIVISION AS NONCOMPETITIVE PURSUANT TO SECTION 16-247f, AS AMENDED.

(3) "EMERGING COMPETITIVE SERVICE" MEANS (A) A TELECOMMUNICATIONS SERVICE RECLASSIFIED AS EMERGING COMPETITIVE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16-247f, AS AMENDED BY SECTION 6 OF THIS ACT, OR (B) A NEW TELECOMMUNICATIONS SERVICE PROVIDED UNDER AN EMERGING COMPETITIVE SERVICE TARIFF ACCEPTED BY THE DEPARTMENT, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16-247f, AS AMENDED, OR OF A PLAN FOR AN ALTERNATIVE FORM OF REGULATION APPROVED PURSUANT TO SECTION 9 OF THIS ACT, PROVIDED THE DEPARTMENT HAS NOT SUBSEQUENTLY RECLASSIFIED THE SERVICE SET FORTH IN SUBPARAGRAPH (A) OR (B) OF THIS SUBDIVISION AS COMPETITIVE OR NONCOMPETITIVE PURSUANT TO SECTION 16-247f, AS AMENDED.

(4) "NONCOMPETITIVE SERVICE" MEANS (A) A TELECOMMUNICATIONS SERVICE DEEMED NONCOMPETITIVE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16-247f, AS AMENDED BY SECTION 6 OF THIS ACT, (B) A TELECOMMUNICATIONS SERVICE RECLASSIFIED BY THE DEPARTMENT AS NONCOMPETITIVE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16-247f, AS AMENDED, OR (C) A NEW TELECOMMUNICATIONS SERVICE PROVIDED UNDER A NONCOMPETITIVE SERVICE TARIFF ACCEPTED BY THE DEPARTMENT, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16-19, AS AMENDED BY SECTION 12 OF THIS ACT, AND ANY APPLICABLE REGULATIONS, OR OF A PLAN FOR AN ALTERNATIVE FORM OF REGULATION APPROVED PURSUANT TO SECTION 9 OF THIS ACT, PROVIDED THE DEPARTMENT HAS

NOT SUBSEQUENTLY RECLASSIFIED THE SERVICE SET FORTH IN SUBPARAGRAPH (A), (B) OR (C) OF THIS SUBDIVISION AS COMPETITIVE OR EMERGING COMPETITIVE PURSUANT TO SECTION 16-247f, AS AMENDED.

[(4)] (5) "Private telecommunications service" means any telecommunications service which is not provided for public hire as a common carrier service and is utilized solely for the telecommunications needs of the person, firm or corporation which controls such service and any subsidiary or affiliate thereof, except for telecommunications service which enables two entities other than such person, firm, corporation, subsidiary or affiliate to communicate with each other.

[(5)] (6) "Telecommunications service" means any transmission IN ONE OR MORE GEOGRAPHIC AREAS (A) between or among points specified by the user, (B) of information of the user's choosing, (C) without change in the form or content of the information as sent and received, (D) by means of electromagnetic transmission, including but not limited to, fiber optics, microwave and satellite, (E) with or without benefit of any closed transmission medium and (F) including all instrumentalities, facilities, apparatus and services, except customer premises equipment, which are used for the collection, storage, forwarding, switching and delivery of such information and are essential to the transmission.

[(6) "Telephone company" shall be construed as defined in section 16-1.]

Sec. 3. Section 16-247b of the general statutes, as amended by section 2 of public act 93-330, is repealed and the following is substituted in lieu thereof:

[(a) No person, firm or corporation, except a telephone company, shall provide telecommunications service within an exchange or its extended local calling area in the state, except for private telecommunications, cellular mobile telephone, radio paging and mobile radio services and any service authorized under a joint or shared user tariff approved by the department of public utility control, without having first obtained a certificate from the department certifying that the public convenience and necessity require the provision of such service within the territory specified in the certificate. The department shall certify that the public convenience and necessity require the provision of such service only after written application for certification has been made to the department, a public hearing has been held thereon and the department has found that the applicant has proven that the telephone company serving the territory named in the application has failed to provide, after having been afforded a reasonable opportunity to do so, such telecommunications service, and that such service is required by customers or potential customers within the territory.]

(a) ON PETITION OR ITS OWN MOTION, THE DEPARTMENT SHALL INITIATE A PROCEEDING TO UNBUNDLE THE NONCOMPETITIVE AND EMERGING COMPETITIVE FUNCTIONS OF A TELECOMMUNICATIONS COMPANY'S LOCAL TELECOMMUNICATIONS NETWORK THAT ARE USED TO PROVIDE TELECOMMUNICATIONS SERVICES AND WHICH THE DEPARTMENT DETERMINES, AFTER NOTICE AND HEARING, ARE REASONABLY CAPABLE OF BEING TARIFFED AND OFFERED AS SEPARATE SERVICES. SUCH UNBUNDLED FUNCTIONS SHALL BE OFFERED UNDER TARIFF AT RATES, TERMS, AND CONDITIONS THAT DO NOT UNREASONABLY DISCRIMINATE AMONG ACTUAL

AND POTENTIAL USERS AND ACTUAL AND POTENTIAL PROVIDERS OF SUCH LOCAL NETWORK SERVICES.

(b) Each telephone company shall provide reasonable nondiscriminatory access to all equipment, facilities and services [located within the state] necessary to provide [competitive or unregulated] telecommunications services to customers. The department shall determine the rates [charged by] THAT a telephone company CHARGES for equipment, facilities and services [contracted for by a certified provider of telecommunications services] which are necessary for the provision of [competitive or unregulated] telecommunications services. The rate that a telephone company charges for a competitive or [unregulated] EMERGING COMPETITIVE telecommunications service shall not be less than the sum of (1) the rate charged to another telecommunications [provider for any basic service used to provide a competitive service] COMPANY FOR A NONCOMPETITIVE OR EMERGING COMPETITIVE LOCAL NETWORK SERVICE FUNCTION USED BY THAT COMPANY TO PROVIDE A COMPETING TELECOMMUNICATIONS SERVICE and (2) the applicable incremental costs of the telephone company.

(c) A telephone company shall not use the revenues, expenses, costs, assets, liabilities or other resources derived from or associated with providing [local exchange service or other monopoly telecommunications services] A NONCOMPETITIVE SERVICE to subsidize its provision of competitive, EMERGING COMPETITIVE or unregulated [intrastate] telecommunications services.

Sec. 4. Section 16-247c of the general statutes, as amended by section 3 of public act 93-330, is repealed and the following is substituted in lieu thereof:

(a) No person, firm or corporation shall provide intrastate [interexchange] telecommunications [service in the state] SERVICES, except for private telecommunications SERVICE, [cellular mobile telephone, radio paging and mobile radio services] COMMERCIAL MOBILE TELECOMMUNICATIONS SERVICE TO THE EXTENT REGULATED BY THE FEDERAL GOVERNMENT and any service authorized under section 16-250a or a joint or shared user tariff approved by the department of public utility control, unless the person, firm or corporation (1) offered, promoted and provided [such service] INTRASTATE TELECOMMUNICATIONS SERVICES on or before January 1, 1984, pursuant to a special charter or certificate of public convenience and necessity or (2) is authorized to provide [such service] INTRASTATE TELECOMMUNICATIONS SERVICES by the department of public utility control pursuant to sections 16-247f to 16-247h, inclusive, as amended by sections 4, 5 and 6 of [this act] PUBLIC ACT 93-330 AND SECTIONS 6 TO 8, INCLUSIVE, OF THIS ACT.

(b) Each provider of intrastate [interexchange] telecommunications [service] SERVICES, as defined in subsection (a) of this section, or any officer, agent or employee thereof, which the department finds has failed to obey or comply with any applicable order made or regulation adopted by the department pursuant to this section shall be fined, by order of the department, not more than five thousand dollars for each offense. Each distinct violation of any provision of this section or any such order or regulation shall be a separate offense and, in the case of a continued violation, each day thereof shall be deemed a separate offense. The department shall impose any such civil penalty in accordance with the procedure established in section 16-41.